

FILED
United States Court of Appeals
Tenth Circuit

UNITED STATES COURT OF APPEALS

FOR THE TENTH CIRCUIT

August 19, 2025

Christopher M. Wolpert
Clerk of Court

LISA S. MONTOYA,

Plaintiff - Appellant,

v.

AMY COLONY, Senior Attorney General;
JEFF BEZOS, CEO Amazon,

Defendants - Appellees.

No. 25-1217
(D.C. No. 1:25-CV-00457-LTB-RTG)
(D. Colo.)

ORDER AND JUDGMENT*

Before **TYMKOVICH**, **BALDOCK**, and **FEDERICO**, Circuit Judges.

Lisa Montoya filed a pro se complaint alleging that she endured continuing assaults at an Amazon warehouse, without redress. The district court dismissed the case as inadequately pled under Rule 8, and we **AFFIRM**.

The original complaint lacked any clear statement of the specific claims she was asserting, but named Amy Colony, a lawyer in Colorado's Office of the Attorney General, as a defendant. The court determined that the complaint did not meet the

* After examining the briefs and appellate record, this panel has determined unanimously that oral argument would not materially assist in the determination of this appeal. *See* Fed. R. App. P. 34(a)(2); 10th Cir. R. 34.1(G). The case is therefore ordered submitted without oral argument. This order and judgment is not binding precedent, except under the doctrines of law of the case, res judicata, and collateral estoppel. It may be cited, however, for its persuasive value consistent with Fed. R. App. P. 32.1 and 10th Cir. R. 32.1.

requirements of Federal Rule of Civil Procedure 8. Ms. Montoya then filed an Amended Complaint that named both Ms. Colony and Jeff Bezos, CEO of Amazon, as defendants. The magistrate judge determined the Amended Complaint still did not comply with the requirements of Rule 8 because it failed to provide a short and plain statement of any claim that demonstrates that Ms. Montoya is entitled to relief. The magistrate judge, considerate of the court's role in pro se proceedings, noted that while such pleadings must be construed liberally, the court could not serve as the litigant's attorney. So the magistrate judge recommended the Amended Complaint be dismissed.

Although Ms. Montoya eventually filed a motion opposing the recommendation, the district court determined that Ms. Montoya's motion was both untimely and did not address the specific analysis in the recommendation. As a result, the district court accepted and adopted the magistrate judge's recommendation without conducting de novo review. It dismissed the Amended Complaint without prejudice and denied without prejudice leave to proceed in forma pauperis on appeal. The court also denied Ms. Montoya's many pending motions as moot.

Following the dismissal, Ms. Montoya filed a "Motion to Vacate Judgement" on April 17, 2025. Construing this as a motion under Rule 59(e), the district court determined once again that the motion was both vague and did not demonstrate that Ms. Montoya's rights had been violated. Additionally, Ms. Montoya provided no reason for the court to reconsider and vacate the order. The district court therefore denied Ms. Montoya's motion.

On appeal, Ms. Montoya argues that her objections should not have been treated as untimely, and reiterates the merits of her claim, particularly given the defendants' non-appearance. She has continued to file motions and documents, including a purported "Entry of Default" and a motion to expedite this case.

As a pro se litigant, we construe Ms. Montoya's arguments liberally. *Hall v. Bellmon*, 935 F.2d 1106, 1110 (10th Cir. 1991). At the same time, a court may not craft arguments on a pro se litigant's behalf. *Garrett v. Selby Connor Maddux & Janer*, 425 F.3d 836, 840 (10th Cir. 2005). And a pro se litigant is also subject to the same rules of procedure that govern other litigants. *DiCesare v. Stuart*, 12 F.3d 973, 979 (10th Cir. 1993).

But her arguments on appeal, as much as they can be deciphered, are no more meritorious than they were below. We review a district court's dismissal for failure to comply with Rule 8 for abuse of discretion. *Nasious v. Two Unknown B.I.C.E. Agents*, 492 F.3d 1158, 1162 n.3 (10th Cir. 2007) ("In numerous unpublished decisions, we have affirmed district courts' dismissals of actions without prejudice for failure to comply with Rule 8 under our basic abuse of discretion standard."). And we find no abuse of discretion below.

The magistrate judge correctly recommended that the complaint be dismissed for failure to provide a short and plain statement of the claim showing that the pleader is entitled to relief or a demand for the relief sought. See Fed. R. Civ. P. 8(a); *Robbins v. Oklahoma*, 519 F.3d 1242, 1250 (10th Cir. 2008). The complaint's vagaries, its lack of specific claims for relief or recitation of facts makes it

impossible to give fair notice of the basis of any claim without constructing arguments on her behalf. *See Nasious*, 492 F.3d at 1163.

The district court was correct to accept this recommendation and committed no abuse of discretion by considering Ms. Montoya's objections to be untimely and non-specific. Any objections to magistrate judge recommendations must be filed within fourteen days after service. *See* 28 U.S.C. § 636(b)(1)(C). The magistrate judge's recommendation was filed on March 20, giving Ms. Montoya until April 3 to object. Despite filing several other motions within this period, she did not file her "Motion Opposing the Recommendation of Dismissal" until April 9, 2025. Ms. Montoya admits her objections were filed after the two-week deadline. Although she pleads on appeal for leniency or excusable neglect, pro se parties must adhere to the same procedures and deadlines as represented parties. *DiCesare*, 12 F.3d at 979. Nor were her objections specific to the magistrate judge's legal analysis—she focused instead on the "discriminating vibe" and the perceived injustices of the recommendation. *United States v. One Parcel of Real Prop.*, 73 F.3d 1057, 1060 (10th Cir. 1996) ("[A] party's objections to the magistrate judge's report and recommendation must be both timely and specific to preserve an issue for de novo review by the district court or for appellate review.").

Nor do we perceive any error in the district court's denial of Ms. Montoya's post-judgment motions. A motion pursuant to Fed. R. Civ. P. 59(e) "may be granted to correct errors of law or to present newly discovered evidence," *Phelps v. Hamilton*, 122 F.3d 1309, 1324 (10th Cir. 1997), or when "the court had

misapprehended the facts, a party's position, or the controlling law." *Servants of Paraclete v. Does*, 204 F.3d 1005, 1012 (10th Cir. 2000). Ms. Montoya's motion for reconsideration did not meet that standard. Her arguments amount to little more than "an unadorned, the-defendants-unlawfully-harmed-me accusation." *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009).

Ms. Montoya continues to seek a default judgment against the defendants, who have not appeared. But because her case was dismissed, and judgment entered against her, no default is appropriate. She contends that dismissal was improper because the opposing parties failed to respond after being served, and that the court should not have closed the case considering their lack of appearance. But not only is it unclear whether service was ever actually completed on defendants, a defendant's failure to respond is independent from a deficient complaint. The district court is well within its authority to dismiss a complaint solely based on its non-compliance with Rule 8. If a complaint fails to meet even "basic pleading requirements, a district court may dismiss the action sua sponte for failure to comply with Rule 8." *Nasious*, 492 F.3d at 1161 n.2.

Because non-compliance with the requirements of Rule 8 is sufficient for dismissal, the court need not have allowed extra time for the defendants to respond, and the court need not consider the plaintiff's objections if they were not timely.

We affirm the dismissal of Ms. Montoya's case without prejudice. As to her remaining motions, we GRANT the motion to proceed in forma pauperis, and we DENY the remaining motions as moot given the affirmed dismissal.

Entered for the Court

Timothy M. Tymkovich
Circuit Judge